

House File 2476

HOUSE FILE _____
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 697)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act regulating transmissible viruses afflicting poultry,
2 making an appropriation, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 HF 2476
5 da/es/25

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1 1 Section 1. Section 163.2, unnumbered paragraph 1, Code
1 2 2003, is amended to read as follows:
1 3 For the purpose of this chapter, infectious and contagious
1 4 diseases shall be deemed to ~~embrace~~ include glanders, farcy,
1 5 maladie du coit (dourine), anthrax, foot and mouth disease,
1 6 scabies, hog cholera, swine dysentery, tuberculosis,
1 7 brucellosis, vesicular exanthema, scrapie, rinderpest, ovine
1 8 foot rot, avian influenza or Newcastle disease as provided in
1 9 chapter 165B, or any other communicable disease so designated
1 10 by the department.
1 11 Sec. 2. NEW SECTION. 165B.1 DEFINITIONS.
1 12 1. "Concentration point" means a location or facility
1 13 where poultry originating from the same or different sources
1 14 are assembled for any purpose. However, a concentration point
1 15 does not include an animal feeding operation as defined in
1 16 section 459.102 if the poultry are provided care and feeding
1 17 for purposes of egg production or slaughter.
1 18 2. "Department" means the department of agriculture and
1 19 land stewardship.
1 20 3. "Law enforcement officer" means an Iowa state patrol
1 21 officer or a regularly employed member of a police force of a
1 22 city or county, including but not limited to a sheriff's
1 23 office, who is responsible for the prevention and detection of
1 24 a crime and the enforcement of the criminal laws of this
1 25 state.
1 26 4. "Manure" means the same as defined in section 459.102.
1 27 5. "Pathogenic virus" means any of the following:
1 28 a. A recognized serotype of the virus avian paramyxovirus
1 29 which is classified as a velogenic or mesogenic strain of that
1 30 virus and which may be transmitted to poultry.
1 31 b. A recognized serotype of the virus commonly referred to
1 32 as avian influenza which may be transmitted to poultry.
1 33 6. "Poultry" means domesticated fowl which are chickens,
1 34 ducks, or turkeys.
1 35 7. "Separate and apart" means to hold poultry so that
2 1 neither the poultry nor organic material originating from the
2 2 poultry has physical contact with other animals.
2 3 8. "Slaughtering establishment" means a slaughtering
2 4 establishment operated under the provisions of the federal
2 5 Meat Inspection Act, 21 U.S.C. } 601 et seq., or a
2 6 slaughtering establishment that has been inspected by the
2 7 state.
2 8 Sec. 3. NEW SECTION. 165B.2 ADMINISTRATION AND
2 9 ENFORCEMENT.
2 10 1. a. The provisions of this chapter, including
2 11 departmental rules adopted pursuant to this chapter, shall be
2 12 administered and enforced by the department. The department
2 13 shall establish, by rule, civil penalties which may be
2 14 administratively or judicially assessed. The department may
2 15 impose, assess, and collect the civil penalties. The attorney
2 16 general or county attorney may bring a judicial action or
2 17 prosecution necessary to enforce the provisions of this
2 18 chapter.
2 19 b. The department shall retain moneys from civil penalties
2 20 that it collects under this chapter. The moneys are
2 21 appropriated to the department for the administration and
2 22 enforcement of this chapter. Notwithstanding section 8.33,

2 23 such moneys shall not revert, but shall be retained by the
2 24 department for the purposes described in this paragraph. The
2 25 department shall submit a report to the chairpersons of the
2 26 joint appropriations subcommittee on agriculture and natural
2 27 resources by January 5 of each year. The report shall state,
2 28 at a minimum, the total amount of moneys collected during the
2 29 past calendar year and describe how these moneys were
2 30 expended.

2 31 2. The provisions of this chapter do not limit the
2 32 authority of the department, another state agency, or a
2 33 political subdivision to regulate or bring an enforcement
2 34 action against a person based on another provision of law,
2 35 including but not limited to provisions in chapter 163, 717B,
3 1 or 717D.

3 2 Sec. 4. NEW SECTION. 165B.3 DETERMINATION OF INFECTION.
3 3 The department may adopt rules if necessary to provide
3 4 methods and procedures to determine whether poultry are
3 5 infected with a pathogenic virus, which may include detection
3 6 and analysis of the disease using techniques approved by the
3 7 United States department of agriculture.

3 8 Sec. 5. NEW SECTION. 165B.4 INFECTED AND EXPOSED POULTRY
3 9 == CIVIL PENALTY == INJUNCTIVE RELIEF.

3 10 1. A person who is the owner or custodian of poultry
3 11 infected with or exposed to a pathogenic virus shall keep the
3 12 poultry separate and apart, and shall dispose of infected or
3 13 exposed poultry in accordance with requirements of the
3 14 department. The person shall ensure the premises where such
3 15 poultry are kept are sanitized as required by the department.
3 16 The person shall dispose of the poultry carcasses, eggs, or
3 17 manure as provided by the department.

3 18 2. A person who violates this section is subject to a
3 19 civil penalty of at least one hundred dollars but not more
3 20 than one thousand dollars, as determined by the department.
3 21 In the case of a continuing violation, each day of the
3 22 continuing violation is a separate violation. However, a
3 23 person shall not be subject to a civil penalty totaling more
3 24 than twenty-five thousand dollars.

3 25 3. The department may seek injunctive relief as provided
3 26 in section 163.62.

3 27 Sec. 6. NEW SECTION. 165B.5 RESTRICTED CONCENTRATION
3 28 POINTS == CIVIL PENALTIES.

3 29 1. A person shall not operate a restricted concentration
3 30 point. A restricted concentration point includes, but is not
3 31 limited to, all of the following:

3 32 a. A concentration point where poultry are sold, bartered,
3 33 or offered for sale or barter, if the concentration point is
3 34 part of a market where poultry are sold, bartered, or offered
3 35 for sale or barter to the general public.

4 1 b. A concentration point where poultry are placed together
4 2 as part of a contest, including but not limited to an event
4 3 conducted for purposes of producing violent contact between
4 4 the poultry.

4 5 2. Subsection 1 does not apply to any of the following:

4 6 a. A slaughtering establishment, public stockyard,
4 7 livestock auction market, state or federal market, livestock
4 8 buying station, or a livestock dealer's yard, truck, or
4 9 facility.

4 10 b. A fair conducted pursuant to chapter 173 or 174.

4 11 c. An event sanctioned by the department.

4 12 d. A 4-H function.

4 13 e. An event sponsored or sanctioned by the Iowa turkey
4 14 marketing council, the Iowa turkey federation, the national
4 15 turkey federation, the Iowa poultry association, the Iowa egg
4 16 council, the American egg board, or the American poultry
4 17 association.

4 18 3. a. A person who owns or operates a restricted
4 19 concentration point is subject to a civil penalty of not less
4 20 than five thousand dollars for the first violation and not
4 21 less than twenty-five thousand dollars for each subsequent
4 22 violation. Each day that a violation continues constitutes a
4 23 separate violation.

4 24 b. A person who has a legal interest in infected poultry
4 25 or has custody of infected poultry which are located at a
4 26 restricted concentration point is subject to a civil penalty
4 27 of not less than five thousand dollars for the first violation
4 28 and not less than twenty-five thousand dollars for each
4 29 subsequent violation. Each day that a violation continues
4 30 constitutes a separate violation.

4 31 c. A person who transports poultry to or from a restricted
4 32 concentration point is subject to a civil penalty of not less
4 33 than one thousand dollars for the first violation and not less

4 34 than five thousand dollars for each subsequent violation.
4 35 Each day that a violation continues constitutes a separate
5 1 violation.

5 2 d. A person who purchases, offers to purchase, barter, or
5 3 offers to barter for poultry at a restricted concentration
5 4 point is subject to a civil penalty of not less than one
5 5 hundred dollars for the first violation and not less than one
5 6 thousand dollars for each subsequent violation. Each day that
5 7 a violation continues constitutes a separate violation.

5 8 e. A person who charges admission for entry into a
5 9 restricted concentration point where a contest occurs or
5 10 otherwise holds, advertises, or conducts the contest is
5 11 subject to a civil penalty of not less than one thousand
5 12 dollars for the first violation and not less than five
5 13 thousand dollars for each subsequent violation. Each day that
5 14 a violation continues constitutes a separate violation.

5 15 f. A person who attends or participates in a contest at a
5 16 restricted concentration point where a contest occurs is
5 17 subject to a civil penalty of not less than one hundred
5 18 dollars for the first violation and not less than one thousand
5 19 dollars for each subsequent violation. Each day that a
5 20 violation continues constitutes a separate violation.

5 21 4. This subsection applies to poultry maintained at a
5 22 restricted concentration point, or poultry transported to or
5 23 from a restricted concentration point.

5 24 a. The department or a law enforcement officer may
5 25 confiscate poultry before a contested case proceeding or
5 26 judicial hearing is conducted to determine whether this
5 27 section has been violated. If the department or a court
5 28 determines that a violation of this section has occurred, the
5 29 poultry are conclusively deemed to be infected with a
5 30 pathogenic virus. The poultry shall be kept separate and
5 31 apart until destroyed by euthanasia as defined in section
5 32 162.2.

5 33 b. The department shall provide that real or personal
5 34 property that is exposed to the poultry shall be sanitized as
5 35 required to eliminate the source of the pathogenic virus. As
6 1 part of the sanitation, the department shall provide for the
6 2 disposal of poultry carcasses, eggs, or manure. Upon
6 3 inspection, the department shall certify that the sanitization
6 4 has been performed as required by this paragraph.

6 5 c. The department may utilize the procedures provided in
6 6 section 17A.18A in order to enforce the provisions of this
6 7 section. The attorney general or county attorney may petition
6 8 the district court for an expedited hearing.

6 9 d. The department shall be reimbursed by the owner of the
6 10 poultry or property for costs required to carry out this
6 11 subsection. However, if the enforcement action is brought due
6 12 to the activity of a law enforcement officer of a political
6 13 subdivision, the political subdivision shall be reimbursed by
6 14 the owner of the poultry or property for those costs. The
6 15 department or political subdivision shall certify the amount
6 16 to the county auditor of any county in which the owner is a
6 17 titleholder of real property. The amount shall be placed upon
6 18 the tax books which shall be a lien upon the real property,
6 19 and collected with interest and penalties after due, in the
6 20 same manner as other unpaid property taxes.

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